

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Brit Augborne, III,

Petitioner,

v.

Warden Williams, *et al.*,

Respondents.

Case No. 2:21-cv-01851-CDS-VCF

ORDER

This is a habeas corpus action, initiated pro se on October 6, 2021, by Brit Augborne, III. The filing of Augborne's petition, and further proceedings in this action, have been delayed for over eight months because the matter of payment of the \$5 filing fee has not been resolved.

When Augborne initiated the action, he did not pay the filing fee and he did not file an application to proceed in forma pauperis. *See* ECF No. 1. The Court therefore dismissed the action without prejudice on October 14, 2021. *See* ECF No. 3. However, Augborne filed a motion for reconsideration (ECF No. 5), and the Court granted that motion on November 18, 2021, and gave Augborne 60 days to pay the filing fee or apply to proceed in forma pauperis. ECF No. 6. Augborne did not comply, but on January 20, 2022, the Court, acting *sua sponte*, extended by 30 days the time for him to pay the filing fee or apply for in forma pauperis status. ECF No. 9. On February 9, 2022, Augborne filed an application to proceed in forma pauperis (ECF No. 10), but that application showed that Augborne was able to pay the \$5 filing fee, so it was denied on May 20, 2022. ECF No. 13. The Court then gave Augborne until June 20, 2022, to pay the filing fee. *Ibid.* The Court stated that failure to comply would result in dismissal of his action. *Ibid.*

In the meantime, on April 14, 2022, Augborne filed a notice of change of address, indicating that he has been released from prison and that he now resides in Gardena, California. *See* ECF No. 11. Information available to the public on the website of the Nevada Department of

1 Corrections (<https://ofdsearch.doc.nv.gov/form.php> (last visited June 23, 2022)) confirms that
2 Augborne has been paroled.

3 Augborne did not comply with the Court's order to pay the filing fee by June 20, 2022.
4 The order stated: "Failure to comply with this order will result in dismissal of this action." The
5 Court will now dismiss this action, without prejudice, for failure to comply with the Court's
6 order and for failure to prosecute.

7 **IT IS THEREFORE ORDERED** that this action is dismissed without prejudice.

8 **IT IS FURTHER ORDERED** that the petitioner is denied a certificate of
9 appealability.

10 **IT IS FURTHER ORDERED** that the Clerk of the Court is directed to enter
11 judgment accordingly.

12
13 DATED this 23rd day of June, 2022.

14
15 
16 _____
17 CRISTINA D. SILVA
18 UNITED STATES DISTRICT JUDGE
19
20
21
22
23
24
25
26
27
28